

APPEAL BRIEF

Thomas Spinelli
Attorney for Appellant
Registration No. 39,533

SCULLY SCOTT MURPHY & PRESSER, P.C.
400 Garden City Plaza, Suite 300
Garden City, New York 11530
(516) 742-4343

TABLE OF CONTENTS

	<u>PAGE</u>
I. REAL PARTY OF INTEREST	2
II. RELATED APPEALS AND INTERFERENCES	3
III. STATUS OF CLAIMS	3
IV. STATUS OF AMENDMENTS	5
V. SUMMARY OF CLAIMED SUBJECT MATTER	5
VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL	12
A. The Rejection of claims 73-84 and 87-94, on appeal, under 35 U.S.C. § 103(a), as being unpatentable over Matsuno is improper	12
B. The Rejection of claims 85 and 86, on appeal, under 35 U.S.C. § 103(a), as being unpatentable over Matsuno in view of Schulken is improper	12
VII. ARGUMENTS	12
A. Claims 73 and 90	12
B. Claim 74-89 and 91-94	15
VIII. CLAIMS APPENDIX	17
IX. EVIDENCE APPENDIX	24
X. RELATED PROCEEDINGS APPENDIX	25

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant(s):	Kiyotaka Matsuno, et al.	Examiner:	Michael G. Mendoza
Serial No:	10/072,721	Art Unit:	3734
Filed:	February 6, 2002	Docket:	15252
For:	CLIPPING DEVICE	Dated:	April 19, 2010

Conf. No.: 1963

Mail Stop Appeal Brief- Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Sir:

Pursuant to 35 U.S.C. § 134 and 37 C.F.R. § 41.37, and in response to the Notice of Appeal submitted on February 17, 2010, entry of this Appeal Brief in support of the Notice of is respectfully requested. This paper is submitted as a brief setting forth the authorities and arguments upon which Appellants rely in support of the appeal from the Final Rejection of Claims 73-96 in the above-identified patent application on September 17, 2009.

I. REAL PARTY IN INTEREST

The real party of interest in the above-identified patent application is Olympus Corporation.

II. RELATED APPEALS AND INTERFERENCES

There are no pending appeals or interferences related to this application to Appellant's knowledge. See section X.

III. STATUS OF CLAIMS

Claims 1-72 stand canceled.

Claim 73 stands rejected based on 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,766,189 to Matsuno (hereinafter "Matsuno").

Claim 74 stands rejected based on 35 U.S.C. § 103(a) as being unpatentable over Matsuno.

Claim 75 stands rejected based on 35 U.S.C. § 103(a) as being unpatentable over Matsuno.

Claim 76 stands rejected based on 35 U.S.C. § 103(a) as being unpatentable over Matsuno.

Claim 77 stands rejected based on 35 U.S.C. § 103(a) as being unpatentable over Matsuno.

Claim 78 stands rejected based on 35 U.S.C. § 103(a) as being unpatentable over Matsuno.

Claim 79 stands rejected based on 35 U.S.C. § 103(a) as being unpatentable over Matsuno.

Claim 80 stands rejected based on 35 U.S.C. § 103(a) as being unpatentable over Matsuno.

Claim 81 stands rejected based on 35 U.S.C. § 103(a) as being unpatentable over Matsuno.

Claim 82 stands rejected based on 35 U.S.C. § 103(a) as being unpatentable over Matsuno.

Claim 83 stands rejected based on 35 U.S.C. § 103(a) as being unpatentable over Matsuno.

Claim 84 stands rejected based on 35 U.S.C. § 103(a) as being unpatentable over Matsuno.

Claim 85 stands rejected based on 35 U.S.C. § 103(a) as being unpatentable over Matsuno in view of U.S. Patent No. 5,499,990 to Schulken et al., (hereinafter “Schulken”).

Claim 86 stands rejected based on 35 U.S.C. § 103(a) as being unpatentable over Matsuno in view of Schulken.

Claim 87 stands rejected based on 35 U.S.C. § 103(a) as being unpatentable over Matsuno.

Claim 88 stands rejected based on 35 U.S.C. § 103(a) as being unpatentable over Matsuno.

Claim 89 stands rejected based on 35 U.S.C. § 103(a) as being unpatentable over Matsuno.

Claim 90 stands rejected based on 35 U.S.C. § 103(a) as being unpatentable over Matsuno.

Claim 91 stands rejected based on 35 U.S.C. § 103(a) as being unpatentable over Matsuno.

Claim 92 stands rejected based on 35 U.S.C. § 103(a) as being unpatentable over Matsuno.

Claim 93 stands rejected based on 35 U.S.C. § 103(a) as being unpatentable over Matsuno.

Claim 94 stands rejected based on 35 U.S.C. § 103(a) as being unpatentable over Matsuno.

Claim 95 stands withdrawn.

Claim 96 stands withdrawn.

Claims 73-94 are appealed, a clean copy of which are attached hereto in section VIII along with the canceled and allowed claims.

IV. STATUS OF AMENDMENTS

The claims were not amended in the Response to the Final Rejection filed September 17, 2009.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Claims 73-94 are the claims on appeal. A copy of the rejected claims is attached hereto in section VIII.

The invention with respect to claim 73 comprises a clipping device comprising: a sheath member (e.g., reference numeral 2, Figure 1A and accompanying portion of the specification) to be inserted in the body of the patient; an actuating wire (e.g., reference numeral 3, Figure 1A and accompanying portion of the specification) received in the sheath member so as to be longitudinally movable relative to the sheath member; a clip unit (e.g., reference numeral 7, Figures 1A and 1B and accompanying portion of the specification) attached to the clipping device in advance and having a tissue clip (e.g., reference numeral 8, Figures 1A and 1B and accompanying portion of the specification) for clipping in the body of the patient and a coupling member (e.g.,

reference numeral 10, Figures 1A and 1B and accompanying portion of the specification) arranged at a distal end of the actuating wire; wherein: the coupling member includes a first end (e.g., reference numeral 11, Figures 1A and 1B and accompanying portion of the specification) fastened to the distal end of the actuating wire to be immovable in an axial direction of the actuating wire and a direction deviating from the axial direction and a second end (e.g., reference numeral 12, Figures 1A and 1B and accompanying portion of the specification) attached to the tissue clip; and when applying the tissue clip, the second end of the coupling member is deformable upon exertion of a force in a proximal direction at the first end of the coupling member that is greater than a predetermined amount so as to prevent a subsequent attachment of the second end to another tissue clip (e.g., Figure 4 and page 15, lines 13-22 of the specification).

The invention with respect to claim 74 comprises the clipping device according to claim 73, wherein the first end of the coupling member is directly fastened to a peripheral surface of the distal end of the actuating wire (e.g., Figures 1A and 1B and accompanying portion of the specification).

The invention with respect to claim 75 comprises the clipping device according to claim 74, wherein the first end of the coupling member is fastened to the distal end of the actuating wire by welding (e.g., Figures 8A and 8B and accompanying portion of the specification at page 20, lines 18-23).

The invention with respect to claim 76 comprises the clipping device according to claim 75, wherein the first end of the coupling member is fastened to the distal end of the actuating wire by laser welding (e.g., Figures 8A and 8B and accompanying portion of the specification at page 20, lines 18-23).

The invention with respect to claim 77 comprises the clipping device according to claim 74, wherein the first end of the coupling member is fastened to the distal end of the actuating wire by pressing (e.g., Figures 8A and 8B and accompanying portion of the specification at page 20, lines 9-17).

The invention with respect to claim 78 comprises the clipping device according to claim 77, wherein the first end of the coupling member is fastened to the distal end of the actuating wire by caulking (e.g., Figures 8A and 8B and accompanying portion of the specification at page 20, lines 9-17).

The invention with respect to claim 79 comprises the clipping device according to claim 73, wherein the first end of the coupling member includes a hole, and the first end of the coupling member is attached to the actuating wire by hooking the actuating wire in the hole (e.g., Figures 1A and 1B and accompanying portion of the specification).

The invention with respect to claim 80 comprises the clipping device according to claim 73, wherein the coupling member including the first end and the second end is a single piece construction, the first end of the coupling member permanently set to the actuating wire, and the second end of the coupling member couples to the tissue clip and is beyond repair after applying the tissue clip (e.g., Figures 1A, 1B, 4, 7, 8A and 8B and Figure 4 and page 15, lines 13-22 of the specification).

The invention with respect to claim 81 comprises the clipping device according to claim 73, wherein the second end of the coupling member include a hook in which the tissue clip is hooked (e.g., Figures 1A and 1B and accompanying portion of the specification).

The invention with respect to claim 82 comprises the clipping device according to claim 73, further comprising an operation unit for exercising a pulling action on the actuating wire to exert the force in the proximal direction at the first end of the coupling member, wherein the operation unit is provided with a slider that is coupled to the proximal end of the actuating wire and is guided so as to be slidable in a longitudinal direction (e.g., reference numeral 6, Figures 1A and 1B, and accompanying portion of the specification).

The invention with respect to claim 83 comprises the clipping device according to claim 73, further comprising: an insertion tube (e.g., reference numeral 1, Figures 1A and 1B, and accompanying portion of the specification) that is fitted over the sheath member and movable longitudinally relative to the sheath member, a first operation unit (e.g., reference numeral 4, Figures 1A and 1B, and accompanying portion of the specification) mounted in the area of the proximal end of the insertion tube for longitudinally moving the insertion tube relative to the sheath member, and a second operation unit (e.g., reference numeral 6, Figures 1A and 1B, and accompanying portion of the specification) for exercising a pulling action on the actuating wire to exert the force in the proximal direction at the first unit of the coupling member, wherein the second operation unit is provided with a slider that is coupled to the proximal end of the actuating wire and is guided so as to be slidable in longitudinal direction.

The invention with respect to claim 84 comprises the clipping device according to claim 83, wherein the insertion tube is provided with raised portions at its inner surface and/or its outer surface (e.g., page 11, lines 8-16 of the specification).

The invention with respect to claim 85 comprises the clipping device according to claim 73, further comprising a lubricant disposed on an outer surface of the actuating wire (e.g., page 9, lines 22-24 of the specification).

The invention with respect to claim 86 comprises the clipping device according to claim 85, wherein the lubricant disposed on the outer surface of the actuating wire is silicone oil (e.g., page 9, lines 22-24 of the specification).

The invention with respect to claim 87 comprises the clipping device according to claim 73, wherein the clipping device is arranged in a packaging unit (e.g., reference numeral 31, Figure 6, and accompanying portion of the specification).

The invention with respect to claim 88 comprises the clipping device according to claim 73, further comprising a first operation unit (e.g., reference numeral 4, Figures 1A and 1B, and accompanying portion of the specification) mounted in the area of a proximal end of an insertion tube of an endoscope for longitudinally moving the insertion tube relative to the sheath member, as well as a second operation unit (e.g., reference numeral 6, Figures 1A and 1B, and accompanying portion of the specification) for exercising a pulling action on the actuating wire to exert the force in the proximal direction at the first end of the coupling member, wherein the second operation unit is provided with a slider that is coupled to the proximal end of the actuating wire and is guided so as to be slidable in a longitudinal direction.

The invention with respect to claim 89 comprises the clipping device according to claim 79, wherein the actuating wire is turned back in a portion to be hooked in the hole (e.g., Figure 1B and page 10, lines 22-24 of the specification).

The invention with respect to claim 90 comprises a clipping device to be

used in combination with an endoscope having a channel, the device comprising: an insertion tube (e.g., reference numeral 1, Figures 1A and 1B, and accompanying portion of the specification) to be inserted in the body of the patient through the channel; a sheath member (e.g., reference numeral 2, Figure 1A and accompanying portion of the specification) to be inserted in the insertion tube so as to be longitudinally movable relative to the insertion tube; an actuating wire (e.g., reference numeral 3, Figure 1A and accompanying portion of the specification) received in the sheath member so as to be longitudinally movable relative to the sheath member; a clip unit (e.g., reference numeral 7, Figures 1A and 1B and accompanying portion of the specification) attached to the clipping device in advance and having a tissue clip (e.g., reference numeral 8, Figures 1A and 1B and accompanying portion of the specification) for clipping in the body of the patient and a coupling member (e.g., reference numeral 10, Figures 1A and 1B and accompanying portion of the specification) including a first end (e.g., reference numeral 11, Figures 1A and 1B and accompanying portion of the specification) fastened to a distal end of the actuating wire to be immovable in an axial direction of the actuating wire and a direction deviating from the axial direction and a second end (e.g., reference numeral 12, Figures 1A and 1B and accompanying portion of the specification) attached to the tissue clip; an operation unit (e.g., reference numeral 6, Figures 1A and 1B, and accompanying portion of the specification) for exercising a pulling action on the actuating wire to exert the force in the proximal direction at the first end of the coupling member, wherein: when applying the tissue clip, the first end of the coupling member is kept fastened to the actuating wire to be immovable in an axial direction of the actuating wire and a direction deviating from the axial direction, and the second end of the

coupling member is deformable upon exertion of a force in a proximal direction at the first end of the coupling member due to the operation unit so as to prevent a subsequent attachment of the second end to another tissue clip (e.g., Figure 4 and page 15, lines 13-22 of the specification).

The invention with respect to claim 91 comprises a clipping device according to claim 90, wherein the first end of the coupling member is directly fastened to a peripheral surface of the distal end of the actuating wire (e.g., Figures 1A and 1B and accompanying portion of the specification).

The invention with respect to claim 92 comprises a clipping device according to claim 91, wherein the first end of the coupling member is fastened to the distal end of the actuating wire by welding (e.g., Figures 8A and 8B and accompanying portion of the specification at page 20, lines 18-23).

The invention with respect to claim 93 comprises a clipping device according to claim 91, wherein the first end of the coupling member is fastened to the distal end of the actuating wire by pressing (e.g., Figures 8A and 8B and accompanying portion of the specification at page 20, lines 9-17).

The invention with respect to claim 94 comprises a clipping device according to claim 90, wherein the coupling member including the first end and the second end is a single piece construction, the first end of the coupling member permanently set to the actuating wire, and the second end of the coupling member couples to the tissue clip and is beyond repair after applying the tissue clip (e.g., Figures 1A, 1B, 4, 7, 8A and 8B and Figure 4 and page 15, lines 13-22 of the specification).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. The Rejection of claims 73-84 and 87-94, on appeal, under 35 U.S.C. § 103(a), as being unpatentable over Matsuno is improper.

B. The Rejection of claims 85 and 86, on appeal, under 35 U.S.C. § 103(a), as being unpatentable over Matsuno in view of Schulken is improper.

VII. ARGUMENT

A. CLAIMS 73 and 90

Firstly, Appellants set forth problems associated with the prior art clipping devices and tissue clipping methods.

As described in the specification (see page 1, line 13 to page 3, line 10), since the conventional clip unit is detachably mounted on a device body, it is necessary to perform an operation of mounting the clip unit to the device body each time the clip is used to clip a living tissue. The mounting operation of the clip unit is consequently cumbersome and requires significant time.

The device and methods disclosed and suggested in Matsuno are consistent with the description of the prior art in the present specification (see page 1, line 13 to page 3, line 10). The clip device of Matsuno, as well as the conventional clip unit described above and in the specification, can easily be reused if the coupling plate 3 of the clip unit 1 shown in FIGS. 1A to 1C is attached to or detached from the pin 15 of the retainer 11 as shown in FIG. 4. Thus, in the clip device of Matsuno, the retainer 11 can be reused a number of times only by replacing the clip unit 1 attached to the retainer 11 with another one.

As described above, in the conventional clip device, the tissue clip

(sterilized) to be left on the tissue is independent of the retainer (un-sterilized), which is reused. According to the conventional art, before the clip device is used, the user has to detach the coupling plate 3 of the used clip unit 1 from the pin 15 of the retainer 11 and attach a coupling plate 3 of a new clip unit 1 which includes a tissue clip as well as the coupling plate 3, to the retainer 11.

Since this operation is performed manually, it is cumbersome and time-consuming to detach the coupling plate 3 from the retainer 11 and attach a new clip unit 1 to the retainer 11. Further, the attachment may not be carried out appropriately/correctly. Therefore, even if the clip device is inserted into the body cavity together with an endoscope or the like, there is a risk that the tissue clip may not be detached from the coupling plate 3, the clip may not successfully clip a target portion of the living tissue, or the clip unit may be drop from the retainer into the body cavity.

Further, when a new clip unit 1 is attached to the retainer 11, since the retainer 11 is reused, the user has to clean, disinfect and sterilize the retainer 11 before attaching the coupling plate 3 of the new clip unit 1 to the retainer 11, and attach the new sterilized clip unit 1 to the sterilized retainer 11. Therefore, there is a possibility that the sterilized clip unit 1 may be attached to an unsterilized retainer 11.

The clipping devices and methods recited in the independent claims of the present application solve all the problems described above and associated with the prior art clipping devices and methods.

The clipping devices of independent claims 73 and 90 are advantageous in that: (1) an operation of attaching the coupling plate (e.g., 3) of the clip unit (e.g., 1) to the retainer (e.g., 11) is not required to use the clipping device, that is, the clipping device

can be used without any coupling process; and (2) the clip unit is prevented from being attached to the actuating wire after the tissue clip clips a living tissue or the like.

The clipping device of independent claim 73 recites “the coupling member includes a first end fastened to the distal end of the actuating wire to be immovable in an axial direction of the actuating wire and a direction deviating from the axial direction and a second end attached to the tissue clip” and “the second end of the coupling member is deformable upon exertion of a force in a proximal direction at the first end of the coupling member that is greater than a predetermined amount so as to prevent a subsequent attachment of the second end to another tissue clip.” Therefore, the tissue clip cannot be separate from the coupling member to reuse the clip unit. Moreover, since the deformed coupling member of the clip unit is fastened to the distal end of the actuating wire, the coupling member is left at the distal end of the actuating wire, and the actuating wire, as well as the clip unit, cannot be reused.

Likewise, the clipping device of independent claim 90 recites “a clip unit attached to the clipping device in advance and having a tissue clip for clipping in the body of the patient and a coupling member including a first end fastened to a distal end of the actuating wire to be immovable in an axial direction of the actuating wire and a direction deviating from the axial direction and a second end attached to the tissue clip” and “the first end of the coupling member is kept fastened to the actuating wire to be immovable in an axial direction of the actuating wire and a direction deviating from the axial direction, and the second end of the coupling member is deformable upon exertion of a force in a proximal direction at the first end of the coupling member due to the operation unit so as to prevent a subsequent attachment of the second end to another

tissue clip." Therefore, the tissue clip cannot be separate from the coupling member to reuse the clip unit. Moreover, since the deformed coupling member of the clip unit is fastened to the distal end of the actuating wire, the coupling member is left at the distal end of the actuating wire, and the actuating wire, as well as the clip unit, cannot be reused.

The clipping devices recited in independent claims 73 and 90 are also advantageous in that the clipping device can be used without the operation of detaching the coupling member from the retainer and the cleaning, disinfecting or sterilizing operation or the like or any assembling work. Thus, such clipping devices have the merit of considerably reducing the time of a surgical operation.

Thus, the clipping devices recited in independent claims 73 and 90 patentably distinguishes over Matsuno in both structure and effect or advantage.

Thus, the rejection of claims 73-84 and 87-96 under 35 U.S.C. § 103(a) is improper and must be withdrawn.

B. CLAIMS 74-89 and 91-94

Claims 74-89 and 91-94 being dependent upon claims 73 and 90 are thus at least allowable therewith.

Based on the above arguments and remarks, Appellants respectfully submit that the claims of the instant invention on appeal are not obvious in light of Matsuno or in light of the combination of Matsuno and Schulken. Consequently, the rejections of the claims based on such references are in error. In view of the remarks submitted hereinabove, the references applied against Claims 73-94 on appeal do not

render those claims unpatentable under 35 U.S.C. § 103. Thus, Appellants submit that the § 103 rejections are in error and must be reversed.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment in connection herewith to Deposit Account No. 19-1013/SSMP.

Respectfully submitted,

/Thomas Spinelli/

Thomas Spinelli
Registration No.: 39,533

SCULLY SCOTT MURPHY & PRESSER, P.C.
400 Garden City Plaza, Suite 300
Garden City, New York 11530
(516) 742-4343
TS:cm

VIII: CLAIMS APPENDIX

Application Serial No. 10/072,721

1-72. (Cancelled)

73. (Rejected) A clipping device comprising:

a sheath member to be inserted in the body of the patient;

an actuating wire received in the sheath member so as to be longitudinally movable relative to the sheath member;

a clip unit attached to the clipping device in advance and having a tissue clip for clipping in the body of the patient and a coupling member arranged at a distal end of the actuating wire;

wherein:

the coupling member includes a first end fastened to the distal end of the actuating wire to be immovable in an axial direction of the actuating wire and a direction deviating from the axial direction and a second end attached to the tissue clip; and

when applying the tissue clip, the second end of the coupling member is deformable upon exertion of a force in a proximal direction at the first end of the coupling member that is greater than a predetermined amount so as to prevent a subsequent attachment of the second end to another tissue clip.

74. (Rejected) The clipping device according to claim 73, wherein the first end of the coupling member is directly fastened to a peripheral surface of the distal end of the actuating wire.

75. (Rejected) The clipping device according to claim 74, wherein the first end of the coupling member is fastened to the distal end of the actuating wire by welding.

76. (Rejected) The clipping device according to claim 75, wherein the first end of the coupling member is fastened to the distal end of the actuating wire by laser welding.

77. (Rejected) The clipping device according to claim 74, wherein the first end of the coupling member is fastened to the distal end of the actuating wire by pressing.

78. (Rejected) The clipping device according to claim 77, wherein the first end of the coupling member is fastened to the distal end of the actuating wire by caulking.

79. (Rejected) The clipping device according to claim 73, wherein the first end of the coupling member includes a hole, and the first end of the coupling member is attached to the actuating wire by hooking the actuating wire in the hole.

80. (Rejected) The clipping device according to claim 73, wherein the coupling member including the first end and the second end is a single piece construction,

the first end of the coupling member permanently set to the actuating wire, and

the second end of the coupling member couples to the tissue clip and is beyond repair after applying the tissue clip.

81. (Rejected) The clipping device according to claim 73, wherein the second end of the coupling member include a hook in which the tissue clip is hooked.

82. (Rejected) The clipping device according to claim 73, further

comprising an operation unit for exercising a pulling action on the actuating wire to exert the force in the proximal direction at the first end of the coupling member,

wherein the operation unit is provided with a slider that is coupled to the proximal end of the actuating wire and is guided so as to be slidable in a longitudinal direction.

83. (Rejected) The clipping device according to claim 73, further comprising:

an insertion tube that is fitted over the sheath member and movable longitudinally relative to the sheath member,

a first operation unit mounted in the area of the proximal end of the insertion tube for longitudinally moving the insertion tube relative to the sheath member, and

a second operation unit for exercising a pulling action on the actuating wire to exert the force in the proximal direction at the first unit of the coupling member,

wherein the second operation unit is provided with a slider that is coupled to the proximal end of the actuating wire and is guided so as to be slidable in longitudinal direction.

84. (Rejected) The clipping device according to claim 83, wherein the insertion tube is provided with raised portions at its inner surface and/or its outer surface.

85. (Rejected) The clipping device according to claim 73, further comprising a lubricant disposed on an outer surface of the actuating wire.

86. (Rejected) The clipping device according to claim 85, wherein the lubricant disposed on the outer surface of the actuating wire is silicone oil.

87. (Rejected) The clipping device according to claim 73, wherein the clipping device is arranged in a packaging unit.

88. (Rejected) The clipping device according to claim 73, further comprising a first operation unit mounted in the area of a proximal end of an insertion tube of an endoscope for longitudinally moving the insertion tube relative to the sheath member, as well as a second operation unit for exercising a pulling action on the actuating wire to exert the force in the proximal direction at the first end of the coupling member,

wherein the second operation unit is provided with a slider that is coupled to the proximal end of the actuating wire and is guided so as to be slidable in a longitudinal direction.

89. (Rejected) the clipping device according to claim 79, wherein the actuating wire is turned back in a portion to be hooked in the hole.

90. (Rejected) A clipping device to be used in combination with an endoscope having a channel, the device comprising:

an insertion tube to be inserted in the body of the patient through the channel;

a sheath member to be inserted in the insertion tube so as to be longitudinally movable relative to the insertion tube;

an actuating wire received in the sheath member so as to be longitudinally movable relative to the sheath member;

a clip unit attached to the clipping device in advance and having a tissue clip for clipping in the body of the patient and a coupling member including a first end

fastened to a distal end of the actuating wire to be immovable in an axial direction of the actuating wire and a direction deviating from the axial direction and a second end attached to the tissue clip;

an operation unit for exercising a pulling action on the actuating wire to exert the force in the proximal direction at the first end of the coupling member,

wherein:

when applying the tissue clip, the first end of the coupling member is kept fastened to the actuating wire to be immovable in an axial direction of the actuating wire and a direction deviating from the axial direction, and the second end of the coupling member is deformable upon exertion of a force in a proximal direction at the first end of the coupling member due to the operation unit so as to prevent a subsequent attachment of the second end to another tissue clip.

91. (Rejected) The clipping device according to claim 90, wherein the first end of the coupling member is directly fastened to a peripheral surface of the distal end of the actuating wire.

92. (Rejected) The clipping device according to claim 91, wherein the first end of the coupling member is fastened to the distal end of the actuating wire by welding.

93. (Rejected) The clipping device according to claim 91, wherein the first end of the coupling member is fastened to the distal end of the actuating wire by pressing.

94. (Rejected) The clipping device according to claim 90, wherein the coupling member including the first end and the second end is a single

piece construction,

the first end of the coupling member permanently set to the actuating wire,
and

the second end of the coupling member couples to the tissue clip and is
beyond repair after applying the tissue clip.

95. (Withdrawn) A method for clipping tissue using a clipping device in
combination with an endoscope having a channel, the method comprising:

inserting an insertion tube in the body of the patient through the channel;

inserting a sheath member in the insertion tube so as to be longitudinally
movable relative to the insertion tube;

receiving an actuating wire in the sheath member so as to be longitudinally
movable relative to the sheath member;

providing a clip unit attached to the clipping unit in advance and having a
tissue clip for clipping in the body of the patient;

attaching a first end of a coupling member to a distal end of the actuating
wire to be immovable in an axial direction of the actuating wire and a direction deviating
from the axial direction;

attaching a second end of the coupling member to the tissue clip;

projecting the tissue clip from a distal end of the insertion tube;

pulling on the actuating wire to exert a force in the proximal direction at
the first end of the coupling member,

when applying the tissue clip, keeping the first end of the coupling
member fastened to the actuating wire to be immovable in an axial direction of the

actuating wire and a direction deviating from the axial direction; and

deforming the second end of the coupling member upon exertion of the force thereby preventing a subsequent attachment of another tissue clip to the coupling member.

96. (Withdrawn) A tissue clipping method comprising:

inserting a sheath member in a body of a patient;

receiving an actuating wire in the sheath member so as to be longitudinally movable relative to the sheath member;

arranging a clip unit attached to the clipping device in advance and having a tissue clip for clipping in the body of the patient and a coupling member at a distal end of the actuating wire;

making the coupling member, including a first end fastened to the distal end of the actuating wire, immovable in an axial direction of the actuating wire and a direction deviating from the axial direction;

attaching a second end of the coupling member to the tissue clip; and

when applying the tissue clip, deforming the second end of the coupling member upon exertion of a force in a proximal direction at the first end of the coupling member that is greater than a predetermined amount so as to prevent a subsequent attachment of the second end to another tissue clip.

IX: EVIDENCE APPENDIX

Application Serial No. 10/072,721

There is no evidence submitted by the Appellant in this appeal.

X: RELATED PROCEEDINGS APPENDIX

Application Serial No. 10/072,721

There are no pending appeals or interferences related to this application to Appellants' knowledge.